



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 16, 1995

Mr. John M. Oliver
Assistant District Attorney
Tarrant County
Hospital District Office
1500 South Main Street
Fort Worth, Texas 76104

OR95-007

Dear Mr. Oliver:

You have asked whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 30525.

The Tarrant County Hospital District (the "district") received a request for copies of certain energy initiatives, which were provided to the requestor. The requestor also asked for proposals for a district project and copies of all information used to evaluate the proposals. The district asserts that the proposals and evaluation information are excepted from disclosure pursuant to section 552.104 of the Government Code.

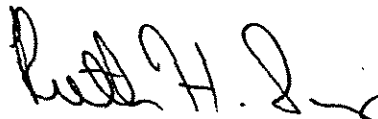
Section 552.104 of the Open Records Act protects from required public disclosure "information that, if released, would give advantage to a competitor or bidder." Section 552.104 is generally invoked to except information submitted to a governmental body as part of a bid or similar proposal. *See, e.g.,* Open Records Decision No. 463 (1987). Governmental bodies may withhold this type of information while the governmental officials are in the process of evaluating the proposals and may ask the competitors to clarify their bids. *Cf.* Open Records Decision No. 170 (1977). Section 552.104 does not, however, except bids or proposals from disclosure once the bidding is over and the contract is in effect. Open Records Decision Nos. 306 (1982); 184 (1978).

The district received the proposals in response to its request for proposal for the construction and operation of a central energy plant for the district's main facility.

You state that the district is still obtaining information about the bids and that the contract has not yet been awarded. Release of the proposals and information used to evaluate the proposals during the time that competitors may clarify, modify, or withdraw their proposals could result in an advantage to the other competitors for the contract or damage the city's ability to obtain truly competitive bids. The district therefore may withhold the proposals and evaluation information at this time pursuant to section 552.104.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Government Section

RHS/rho

Ref.: ID# 30525

Enclosures: Submitted documents

cc: Mr. Tom Jenkins
Vice-President
Thermonetics, Inc.
301 Commerce Street, Suite 1440
Fort Worth, Texas 76102
(w/o enclosures)